

(Mr. St. Pierre, Canada)

a harm, the law of his own State applies. If he is hit by an object falling from space, another law may apply. Any such difference? The citizen knows only that he has been hurt while innocently going about his business. In either case, we suggest, he should be entitled to have the law of his own country applied and to be compensated for the damage in the manner and to the extent that that law provides -- no more and no less.

During consideration of the draft convention in September, at the last session of the outer space Committee, a number of representatives commented that although international law provides for restitution to the prior condition, it would be unrealistic to apply the law of the place where the damage occurs, because there are differences between national legal systems in delimiting these elements of restitution which would be compensable.

It is precisely because of these differences between legal systems in measuring compensation that my delegation believes that the normal liability law of the victim State should apply -- again, with the provision that an impartial claims commission considers the law of the victim State with respect to compensation to be consistent with the relevant principles of international law.

While my delegation regrets that there is no specific reference in the draft convention to the law of the place, we are even more concerned by the fact that, according to the provisions of Article XIX (2), arbitration decisions will be merely recommendatory unless the States concerned agree that the decisions shall be binding. We recognize the argument that the lack of binding arbitration should not prove fatal, since it would be difficult for a launching State to ignore recommendations of an impartial claims commission. It would be particularly difficult when it is considered that Article XIX (4) provides that these decisions shall be made public and that copies of the decisions shall be delivered to the Secretary-General. However, we are still unable to persuade ourselves that victims are adequately protected if arbitration awards can be ignored by the State causing the damage.

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We continue to believe that States which are willing to create risks by launching objects into space should be willing to be bound by any decisions reached by a fair system of international arbitration. We are particularly disturbed by the omission of binding arbitration, because the Formula used in Article XIX may well become a precedent for arbitration procedures in other legal regimes.

We have in mind, for example, possible developments in environmental law and the law of the sea, where inherently dangerous activities should entail the full responsibility, subject to binding third party arbitration, of the States carrying out the offending activities.